

Substitute House Bill No. 5379

House of Representatives, April 16, 1998. The Committee on Appropriations reported through REP. DYSON, 94th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING RIGHTS OF FOSTER PARENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 46b-129 of the general statutes, as  
2 amended by section 19 of public act 97-319, is  
3 repealed and the following is substituted in lieu  
4 thereof:

5 (a) Any selectman, town manager, or town,  
6 city, or borough welfare department, any probation  
7 officer, the Connecticut Humane Society, or the  
8 Commissioner of Social Services, the Commissioner  
9 of Children and Families or any child-caring  
10 institution or agency approved by the Commissioner  
11 of Children and Families, a child or his  
12 representative or attorney or a foster parent of a  
13 child, having information that a child or youth is  
14 neglected, uncared-for or dependent, may file with  
15 the Superior Court which has venue over such  
16 matter a verified petition plainly stating such  
17 facts as bring the child or youth within the  
18 jurisdiction of the court as neglected,  
19 uncared-for, or dependent, within the meaning of  
20 section 46b-120, the name, date of birth, sex, and  
21 residence of the child or youth, the name and  
22 residence of his parents or guardian, and praying  
23 for appropriate action by the court in conformity

24 with the provisions of this chapter. Upon the  
25 filing of such a petition, except as otherwise  
26 provided in subsection (e) of section 17a-112, the  
27 court shall cause a summons to be issued requiring  
28 the parent or parents or the guardian of the child  
29 or youth to appear in court at the time and place  
30 named, which summons shall be served not less than  
31 fourteen days before the date of the hearing in  
32 the manner prescribed by section 46b-128, and said  
33 court shall further give notice to the petitioner  
34 and to the Commissioner of Children and Families  
35 of the time and place when the petition is to be  
36 heard not less than fourteen days next preceding  
37 the hearing in question.

38 (b) If it appears from the allegations of the  
39 petition and other verified affirmations of fact  
40 accompanying the petition, or subsequent thereto,  
41 that there is reasonable cause to find that the  
42 child's or youth's condition or the circumstances  
43 surrounding his care require that his custody be  
44 immediately assumed to safeguard his welfare, the  
45 court shall either (1) issue an order to the  
46 parents or other person having responsibility for  
47 the care of the child or youth to show cause at  
48 such time as the court may designate why the court  
49 shall not vest in some suitable agency or person  
50 the child's or youth's temporary care and custody  
51 pending a hearing on the petition, or (2) vest in  
52 some suitable agency or person the child's or  
53 youth's temporary care and custody pending a  
54 hearing upon the petition which shall be held  
55 within ten days from the issuance of such order on  
56 the need for such temporary care and custody. The  
57 service of such orders may be made by any officer  
58 authorized by law to serve process, or by any  
59 probation officer appointed in accordance with  
60 section 46b-123, investigator from the Department  
61 of Administrative Services, state police officer  
62 or indifferent person. The expense for any  
63 temporary care and custody shall be paid by the  
64 town in which such child or youth is at the time  
65 residing, and such town shall be reimbursed  
66 therefor by the town found liable for his support,  
67 except that where a state agency has filed a  
68 petition pursuant to the provisions of subsection  
69 (a) of this section, the agency shall pay such  
70 expense. If the court, pursuant to this  
71 subsection, vests in a suitable agency or person

72 the child's or youth's temporary care or custody,  
73 the court shall provide to the commissioner and  
74 the parent of the child or youth specific steps  
75 which the parent may take to facilitate the return  
76 of the child or youth to the custody of such  
77 parent. If the court, after a show cause hearing  
78 pursuant to this section, maintains the custody of  
79 the child or youth in the parent, the court may  
80 provide to the commissioner and the parent  
81 specific steps which the parent may take to  
82 maintain custody of the child or youth.

83 (c) When a petition is filed in said court  
84 for the commitment of a child or youth, the  
85 Commissioner of Children and Families shall make a  
86 thorough investigation of the case and shall cause  
87 to be made a thorough physical and mental  
88 examination of the child or youth if requested by  
89 the court. The court after hearing on the petition  
90 and upon a finding that the physical or mental  
91 ability of a parent or guardian to care for the  
92 child or youth before the court is at issue may  
93 order a thorough physical or mental examination,  
94 or both, of the parent or guardian whose  
95 competency is in question. The expenses incurred  
96 in making such physical and mental examinations  
97 shall be paid as costs of commitment are paid.

98 (d) Upon finding and adjudging that any child  
99 or youth is uncared-for, neglected or dependent,  
100 the court may commit him to the Commissioner of  
101 Children and Families for a maximum period of  
102 twelve months, unless such period is extended in  
103 accordance with the provisions of subsection (e)  
104 of this section, provided such commitment or any  
105 extension thereof may be revoked or parental  
106 rights terminated at any time by the court, or the  
107 court may vest such child's or youth's care and  
108 personal custody in any private or public agency  
109 which is permitted by law to care for neglected,  
110 uncared-for or dependent children or youth or with  
111 any person found to be suitable and worthy of such  
112 responsibility by the court. The court shall order  
113 specific steps which the parent must take to  
114 facilitate the return of the child or youth to the  
115 custody of such parent. The commissioner shall be  
116 the guardian of such child or youth for the  
117 duration of the commitment, provided the child or  
118 youth has not reached the age of eighteen years  
119 or, in the case of a child or youth in full-time

120 attendance in a secondary school, a technical  
121 school, a college or a state-accredited job  
122 training program, provided such child or youth has  
123 not reached the age of twenty-one, by consent of  
124 such youth, or until another guardian has been  
125 legally appointed, and in like manner, upon such  
126 vesting of his care, such other public or private  
127 agency or individual shall be the guardian of such  
128 child or youth until he has reached the age of  
129 eighteen years or, in the case of a child or youth  
130 in full-time attendance in a secondary school, a  
131 technical school, a college or a state-accredited  
132 job training program, until such child or youth  
133 has reached the age of twenty-one years or until  
134 another guardian has been legally appointed. Said  
135 commissioner may place any child or youth so  
136 committed to him in a suitable foster home or in  
137 the home of a person related by blood to such  
138 child or youth or in a licensed child-caring  
139 institution or in the care and custody of any  
140 accredited, licensed or approved child-caring  
141 agency, within or without the state, provided a  
142 child shall not be placed outside the state except  
143 for good cause and unless the parents of such  
144 child are notified in advance of such placement  
145 and given an opportunity to be heard, or in a  
146 receiving home maintained and operated by the  
147 Commissioner of Children and Families. In placing  
148 such child or youth, said commissioner shall, if  
149 possible, select a home, agency, institution or  
150 person of like religious faith to that of a parent  
151 of such child or youth, if such faith is known or  
152 may be ascertained by reasonable inquiry, provided  
153 such home conforms to the standards of said  
154 commissioner and the commissioner shall, when  
155 placing siblings, if possible, place such children  
156 together. As an alternative to commitment, the  
157 court may place the child in the custody of the  
158 parent or guardian with protective supervision by  
159 the Commissioner of Children and Families subject  
160 to conditions established by the court.

161 (e) Ninety days before the expiration of each  
162 twelve-month commitment made in accordance with  
163 the provisions of subsection (d) of this section  
164 and each extension made pursuant to the provisions  
165 of this subsection, the Commissioner of Children  
166 and Families shall petition the court either to  
167 (1) revoke such commitment, in accordance with the

168 provisions of subsection (g) of this section, or  
169 (2) terminate parental rights in accordance with  
170 the provisions of section 17a-112, or (3) extend  
171 the commitment beyond such twelve-month period on  
172 the ground that an extension is in the best  
173 interest of the child. The court shall give notice  
174 to the parent, parents or guardian and to the  
175 child or youth at least fourteen days prior to the  
176 hearing on such petition. Upon finding that an  
177 extension is in the best interest of the child,  
178 the court may extend the commitment for a period  
179 of twelve months. At such hearing the court shall  
180 determine the appropriateness of continued efforts  
181 to reunify the child or youth with his family. If  
182 the court finds that such efforts are not  
183 appropriate, the Department of Children and  
184 Families shall within sixty days of such finding  
185 either (A) file a petition for the termination of  
186 parental rights, (B) file a motion to revoke the  
187 commitment and vest the custody and guardianship  
188 of the child on a permanent or long-term basis in  
189 an appropriate individual or couple or (C) file a  
190 written permanency plan with the court for  
191 permanent or long-term foster care, which plan  
192 shall include an explanation of the reason that  
193 neither termination of parental rights nor custody  
194 and guardianship is appropriate for the child. The  
195 court shall promptly convene a hearing for the  
196 purpose of reviewing such written plan.

197 (f) The Commissioner of Children and Families  
198 shall pay directly to the person or persons  
199 furnishing goods or services determined by said  
200 commissioner to be necessary for the care and  
201 maintenance of such child or youth the reasonable  
202 expense thereof, payment to be made at intervals  
203 determined by said commissioner; and the  
204 Comptroller shall draw his order on the Treasurer,  
205 from time to time, for such part of the  
206 appropriation for care of committed children or  
207 youth as may be needed in order to enable the  
208 commissioner to make such payments. Said  
209 commissioner shall include in his annual budget a  
210 sum estimated to be sufficient to carry out the  
211 provisions of this section. Notwithstanding that  
212 any such child or youth has income or estate, the  
213 commissioner may pay the cost of care and  
214 maintenance of such child or youth. The  
215 commissioner may bill to and collect from the

216 person in charge of the estate of any child or  
217 youth aided under this chapter, including his  
218 decedent estate, or the payee of such child's or  
219 youth's income, the total amount expended for care  
220 of such child or youth or such portion thereof as  
221 any such estate or payee is able to reimburse.

222 (g) Any court by which a child or youth has  
223 been committed pursuant to the provisions of this  
224 section may, upon the application of the attorney  
225 who represented such child in a prior or pending  
226 commitment proceeding, an attorney appointed by  
227 the Superior Court on its own motion or an  
228 attorney retained by such child after attaining  
229 the age of fourteen, a parent, including any  
230 person who acknowledges before said court  
231 paternity of a child or youth born out of wedlock,  
232 or other relative of such child or youth, the  
233 selectman or any original petitioner, or a  
234 licensed child-caring agency or institution  
235 approved by the commissioner, or said  
236 commissioner, and while such child or youth is  
237 under the guardianship of said commissioner, upon  
238 hearing, after reasonable notice to said  
239 commissioner, and, if said commissioner made the  
240 application, after reasonable notice to such  
241 parent, relative, original petitioner, selectman  
242 or child-caring agency or institution, upon  
243 finding that cause for commitment no longer  
244 exists, revoke such commitment, and thereupon such  
245 guardianship and all control of said commissioner  
246 over such child or youth shall terminate. The  
247 court may further revoke the commitment of any  
248 child or youth upon application by the  
249 commissioner or by the child or youth concerned  
250 and after reasonable notice to the parties  
251 affected upon a finding that such revocation will  
252 be for the best interest and welfare of such child  
253 or youth. No hearing shall be held for such  
254 reopening and termination of commitment or  
255 transfer of commitment more often than once in six  
256 months, except upon the application of said  
257 commissioner.

258 (h) Upon service on the parent, guardian or  
259 other person having control of the child or youth  
260 of any order issued by the court pursuant to the  
261 provisions of subsections (b) and (d) of this  
262 section, the child or youth concerned shall be  
263 surrendered to the person serving the order who

264 shall forthwith deliver the child or youth to the  
265 person, agency, department or institution awarded  
266 custody in such order. Upon refusal of the parent,  
267 guardian or other person having control of the  
268 child or youth to surrender the child or youth as  
269 provided in the order, the court may cause a  
270 warrant to be issued charging the parent, guardian  
271 or other person having control of the child or  
272 youth with contempt of court. If the person  
273 arrested is found in contempt of court, the court  
274 may order such person confined until he purges  
275 himself of contempt, but for not more than six  
276 months, or may fine such person not more than five  
277 hundred dollars, or both.

278 (i) A foster parent shall have standing for  
279 the purposes of this section in Superior Court in  
280 matters concerning the placement or revocation of  
281 commitment of a foster child living with such  
282 parent. A foster parent shall receive notice of  
283 any application to revoke commitment or any  
284 hearing on such application. A FOSTER PARENT WHO  
285 HAS CARED FOR A CHILD OR YOUTH FOR NOT LESS THAN  
286 SIX MONTHS SHALL HAVE STANDING TO COMMENT ON THE  
287 BEST INTERESTS OF SUCH CHILD OR YOUTH IN ANY  
288 MATTER UNDER THIS SECTION.

289 KID	COMMITTEE VOTE:	YEA 11	NAY 0	JFS	C/R	HS
290 HS	COMMITTEE VOTE:	YEA 11	NAY 3	JF	C/R	APP
291 APP	COMMITTEE VOTE:	YEA 50	NAY 0	JFS		

\* \* \* \* \*

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

\* \* \* \* \*

**FISCAL IMPACT STATEMENT - BILL NUMBER SHB 5379**

STATE IMPACT                      None, see explanation below

MUNICIPAL IMPACT                None

STATE AGENCY(S)                Department        of        Children        and  
   Families, Office of the Attorney  
   General

**EXPLANATION OF ESTIMATES:**

It is anticipated that no fiscal impact will result for either the Department of Children and Families or the Office of the Attorney General as the bill does not appear to mandate notification of foster parents who have cared for a child for at least six months when court action affecting the child is to occur.

\* \* \* \* \*

**OLR BILL ANALYSIS**

SHB 5379

**AN ACT CONCERNING RIGHTS OF FOSTER PARENTS**

**SUMMARY:** This bill gives foster parents who have cared for a child for six months or more standing for the limited purpose of commenting on the child's best interests in a variety of Superior Court hearings. It appears to apply regardless of whether the child is still in their care. It applies to hearings on orders of temporary custody and show-cause motions following the emergency removal of a child from his home, neglect petitions seeking commitment to the Department of Children and Families, petitions to extend or revoke a



commitment or terminate parental rights, and permanency planning. Current law gives foster parents with whom a child is living legal standing (which allows them to bring or join an action) in matters concerning the child's placement or revocation of his commitment, regardless of how long the child has lived with them.

EFFECTIVE DATE: October 1, 1998

## **BACKGROUND**

### **Related Bill**

sHB 5745, favorably reported by the Judiciary Committee, establishes a two-hearing process following the temporary removal of a child from his home. The first is to ensure that the court takes a number of practical steps to assure that parents and the child are represented and that parents understand the allegations against them. The second, which must be held within 10 days of the first, is to decide if the temporary custody order should be extended. sHB 5379 would give long-term foster parents standing to comment at both of these hearings.

## **COMMITTEE ACTION**

Children's Committee

Joint Favorable Substitute Change of Reference  
Yea 11      Nay 0

Human Services Committee

Joint Favorable Change of Reference  
Yea 11      Nay 3

Appropriations Committee

Joint Favorable Substitute  
Yea 50      Nay 0